

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

ROBERT HARDEN.

Petitioner,

V.

BRIAN GAGE, Warden, and ROBERT HOUSTON, Director of Department of Corrections.

Respondents.

CASE NO. 8:13CV356

MEMORANDUM AND ORDER

This matter is before the court on Petitioner's Motion for Appointment of Counsel. (Filing No. [25](#).) The Petitioner previously moved for appointment of counsel (Filing No. [7](#)) and that motion was denied (Filing No. [10](#)). The Petitioner has not presented any new information or argument that was not presented in connection with his earlier motion.

“There is neither a constitutional nor statutory right to counsel in habeas proceedings; instead, [appointment] is committed to the discretion of the trial court.” [*McCall v. Benson*, 114 F.3d 754, 756 \(8th Cir. 1997\)](#). As a general rule, counsel will not be appointed unless the case is unusually complex or the petitioner’s ability to investigate and articulate the claims is unusually impaired or an evidentiary hearing is required. See, e.g., [*Morris v. Dormire*, 217 F.3d 556, 558-59 \(8th Cir. 2000\)](#), *cert. denied*, 531 U.S. 984 (2000); [*Hoggard v. Purkett*, 29 F.3d 469, 471 \(8th Cir. 1994\)](#). See also Rule 8(c) of the *Rules Governing Section 2254 Cases in the United States District Courts* (requiring appointment of counsel if an evidentiary hearing is warranted.) The court has carefully reviewed the record and finds that there is no need for the appointment of counsel at this time.

IT IS THEREFORE ORDERED that: Petitioner's Motion for Appointment of Counsel (Filing No. [25](#)) is denied without prejudice to reassertion.

DATED this 26th day of June, 2014.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge

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